27. (Twice Amended) A breathable fabric according to [claim 22] claim 41, wherein the spacer members project by a distance which is substantially the same across the relevant major face of the sheet.

28. (Twice Amended) A breathable fabric according to [claim 22] claim 41, wherein the spacer members are discontinuous.

29. (Twice Amended) A breathable fabric according to [claim 22] claim 41, wherein the spacer members are continuous.

38. (Twice Amended) A breathable fabric according to claim [35] 41, wherein [the second major face of the sheet is provided with a] each dome projection [in the region of each perforation, each dome projection corresponding] corresponds with a hollow depression or chamber in the first major face of the sheet.--

REMARKS

Claims 7-21, 27-34, and 38-41 are now in the case. Claims 1-6, 23-26, and 35-37 have been deleted, and new claims 39-41 have been presented to better define applicant's claimed invention and to better differentiate the invention from the art of record. Additionally, a new, shorter abstract has been proposed.

The originally-presented claims have been rejected on three statutory grounds: a) Section 112, (second paragraph) for failure to particularly point out and distinctly claim applicant's invention; b) Section 102(b) in light of applicant's own prior international patent application published 5 September 1991; and, c) Section 103(a), based on the teachings of the same international application.

As pointed out in the specification, applicant's September 1991 published patent application (WO 91/12958)[1] discloses a breathable insulating fabric which is marketed under the trademark, STOMATEX. The present invention discloses improvements on this earlier apparatus - in particular, the incorporation of "spacer members" or "ribs 9" on at least the outer side of the breathable article or fabric. These spacer members cooperate with the inner dome projections to improve the breathability of the structure.

[1] Upon entry into the U.S. national phase, this application resulted in three U.S. Patents - Nos. 5,656,352; 5,620,771 and 5,733,626).

Turning to the Section 112 rejections, the originally-presented independent claims have been replaced with new claims which do not contain the language which was found indefinite by the examiner. Reconsideration of the rejection of claims 1, 2, 4, 6, 7, 10, 22, 25 and 30 under 35 U.S.C. §112 is respectfully requested.

With respect to the Section 102 rejection, applicant's 1991 WIPO patent publication does not disclose the herein-claimed invention. The 1991 WIPO document discloses a laminate fabric structure comprising three layers. Starting from the outside of the laminate, the outer most layer is "layer 3," the intermediate layer is "layer 1," and "layer 2" is the layer adapted to contact the wearer's skin [page 8, line 29-page 9, line 4].

One embodiment of intermediate layer 1 is illustrated at Figure 2a of the cited reference and shows a concave "chamber 7" with a "dome 8" defining a "narrow region 6" of a perforated region of the fabric. What is missing from this structure is the "spacer member" or "rib" 9 of the present invention (see Figures 1-3 of the present application).

In her rejection of certain of the claims as being fully met by the WIPO publication, the examiner appears to view the reference's "dome 8" as a "spacer member" [Official Action of 18 December 2002, page 5, lines 11-15]. With respect, this is a strained interpretation of the reference, at best. Indeed, if the reference's "dome 8" is a "spacer member," then the cited reference would lack a "dome-like projection" as called for by the present claims.

Reconsideration of the 35 U.S.C. §102(b) rejection is respectfully requested.

Claims 3, 5, 8-14, 24, 26, 28, 29 and 31-34 have been rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's 1991 WIPO publication.

As pointed out in the specification of the present application, one possible limitation of applicant's earlier device is that breathing action might be inhibited when the fabric article is compressed by the weight of the wearer bearing on a hard, non-porous surface [page 2, lines 2-8]. Under such forces, the dome-like projections can collapse, thus interfering with the flow of air through the perforated article.

Applicant's solution is to counter this pancaking effect by providing ribs or spacers on the outer surface of the article to counter the compressing effect of the downward forces. It is

submitted that this solution is not suggested by the cited Middleton reference, or by any of the art of record.

Lastly, the spacer members recited in the claims are not provided on the surface facing the skin of the user and do not "separate the skin from the fecal matter deposited in the article" as noted at page 7 of the Official action. Rather, the spacer members separate the outer side of the article from the surface that it contacts. The spacer members thus permit flexure of the dome-like projections and proper pump-like functioning of the material even if the user is in pressure contact (*e.g.*, by body weight) with that surface.

Reconsideration of the obviousness rejections is respectfully requested.

Respectfully submitted,

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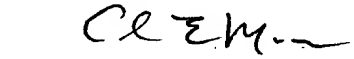
By: 

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May 2, 2003

MARKED-UP VERSION OF AMENDED CLAIMS

7. (Amended) A breathable article according to claim [6] 40, wherein the spacer members project from the second major face of the sheet and have a sufficient resilience that the perforations of the sheet remain open during normal use and the second side of the article is not normally pressed against the surface.

8. (Twice Amended) A breathable article according to claim [1] 39, wherein the spacer members are discontinuous.

9. (Twice Amended) A breathable article according to claim [1] 39, wherein the spacer members are continuous.

15. (Twice Amended) A breathable article according to claim [1] 39, wherein the sheet further includes a hollow depression or chamber provided in the first major face of the sheet in the region of each perforation.

18. (Twice Amended) A breathable article according to claim 15, wherein [the second major face of the sheet is provided with a dome projection in the region of each perforation,] each dome projection [corresponding] corresponds with a hollow depression or chamber of the first major face of the sheet.

19. (Twice Amended) A breathable article according to claim [1] 39, when permanently or [releasable] releasably affixed to the surface.

20. (Twice Amended) A breathable article according to claim [1] 39, being a cushioning or lining article for locating between a person or animal and a surface selected from the surfaces of apparel and clothing and portions thereof, seats and portions thereof, wheelchairs and portions thereof, headwear, footwear, body protectors, body armour, sports shields, bedding, upholstery coverings, orthopaedic casts, orthopaedic supports, orthopaedic

hard braces, and other articles against which the body of the person or animal, or a portion thereof, can be compressed in use.

21. (Twice Amended) A breathable article according to claim [1] 39, being a medical or veterinary dressing.

27. (Twice Amended) A breathable fabric according to [claim 22] claim 41, wherein the spacer members project by a distance which is substantially the same across the relevant major face of the sheet.

28. (Twice Amended) A breathable fabric according to [claim 22] claim 41, wherein the spacer members are discontinuous.

29. (Twice Amended) A breathable fabric according to [claim 22] claim 41, wherein the spacer members are continuous.

38. (Twice Amended) A breathable fabric according to claim [35] 41, wherein [the second major face of the sheet is provided with a] each dome projection [in the region of each perforation, each dome projection corresponding] corresponds with a hollow depression or chamber in the first major face of the sheet.